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OFFICE OF PETITIONS

In re Application of :
Ken W. Marr : DECISION ON PETITION TO
Application No. 09/933379 : WITHDRAW HOLDING OF
Filed: 08/20/2001 : ABANDONMENT
Attorney Docket No. 2008.000282 :

This is a decision on the petition, filed on 22 December, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 28 November, 2003. An amendment after final rejection was filed on 16 January, 2004. The amendment failed to place the application in condition for allowance, however, and an Advisory Action was mailed on 4 March, 2004. Notice of Abandonment was mailed on 11 October, 2006.

Petitioner asserts that a timely and proper response to the final Office action, in the form of a Request for Continued Examination (RCE), preliminary amendment as the submission under 37 CFR 1.114, and the required extension of time, were filed on 29 March, 2004, by facsimile.

A review of the Official file reveals that an RCE Request including authorization to charge the RCE fee and extension of time fee and an amendment as the submission filed under 37 CFR 1.114 were received on 29 March, 2004.¹

¹ As 28 March, 2004, fell on a Sunday, the response filed on 29 March, 2004, is timely filed with a one (1) month extension of time.

The showing of record is that a proper and timely reply to the Office action mailed on 28 November, 2003, was in fact filed. Therefore, there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The RCE fee and one (1) month extension of time fee will be charged to counsel's deposit account as authorized in the RCE request transmittal

The application will be referred to Technology Center Art Unit 2814 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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